

(A)

IN THE UNITED STATES DISTRICT COURT
FOR THE CENTRAL DISTRICT OF ILLINOIS

FILED

MAR 31 2008 *new*
Mar 31, 2008
MICHAEL W. DOBBINS
CLERK, U.S. DISTRICT COURT

JAMES BLACKMAN
(Full name under which you were convicted)

NI 62837
(Prison Number)

STATEVILLE CORRECTIONAL CENTER
(Place of Confinement)

08CV1836
JUDGE ANDERSEN
MAG. JUDGE COX

(To be supplied by Clerk)

PETITION FOR WRIT OF HABEAS CORPUS
PURSUANT TO 28 U.S.C. §2254
BY A PERSON IN STATE CUSTODY

JAMES BLACKMAN, Petitioner
(Full name under which you were convicted)

vs.

TERRY MC CAIN, Respondent
(Name of Warden, Superintendent, Jailor, or
authorized person having custody of petitioner),

and (when applicable)

The Attorney General of the State of

**PETITION FOR WRIT OF HABEAS CORPUS
BY A PERSON IN STATE CUSTODY**

INSTRUCTIONS—READ CAREFULLY

1. If you are attacking a judgment which imposed a sentence to be served in the future, you must fill in the name of the state where the judgment was entered. If you have a sentence to be served in the future under a federal judgment which you wish to attack, you should file a motion under Title 28, U.S.C. §2255, in the federal court which entered the judgment.
2. **Readable** - The petition may be either typed or handwritten, but it must be readable.
3. **One Conviction Per Form** - You can only challenge one criminal conviction in each petition.
4. **Signed Under Penalty of Perjury** - The petition must be signed by you "under penalty of perjury". Any false statement of a material fact may serve as a basis for prosecution and conviction for perjury. Your signature does not have to be witnessed by a notary public.
5. **Copies and Proper Court** - All questions must be answered. When the petition is fully answered, the original and two (2) copies must be mailed to the Clerk of the United States District Court for the Southern District of Illinois, whose address is P.O. Box 249, East St. Louis, IL 62202-02491.
6. **Exhaustion** - Before you can sue in federal court for habeas corpus relief, you must first raise every ground you have in State Court, either by direct appeal, state habeas, and/or post-conviction statutes, and appeal as high in the state court system as they will let you go. If you have not done this, you should either do it now, before filing in federal court, or be prepared to explain on the form why you have not exhausted your state remedies.
7. **All Grounds** - You must include all grounds for relief in this petition and the facts supporting each ground for relief. If you fail to do so, you may be prevented from presenting additional grounds at a later date.
8. **Legal Citations and Arguments** - No citations of authorities need be furnished. If briefs or arguments are submitted, they should be submitted in the form of a separate memorandum.
9. **Fee** - You must either (A) pay the filing fee of \$5.00 or (B) if you do not have the money, you may request permission to proceed in forma pauperis, in which event you must complete and sign the motion and affidavit supplied by the clerk's office and have an authorized officer at the penal institution complete and sign the attached certificate. You must also have an authorized officer attach a print-out of your prison trust account activity for the six months prior to the filing of your petition.
10. **Grounds Frequently Raised** - For your information, the following is a list of the most frequently raised grounds for relief in habeas corpus proceedings. Each statement preceded

by a letter is a separate ground for possible relief. YOU MAY RAISE ANY ADDITIONAL GROUND(S). However, you should raise in this Petition all available grounds (relating to this conviction) on which you base your allegations that you are being held in custody unlawfully.

Do not check any of the listed grounds. If you select one or more of these grounds for relief or any other ground(s), you must allege FACTS. The Petition may be returned to you if you merely check the ground(s) listed below.

- a) Conviction obtained by plea of guilty which was unlawfully induced or not made voluntarily or with understanding of the nature of the charge and consequences of the plea.
- b) Conviction obtained by used of coerced confession.
- c) Conviction obtained by use of evidence gained pursuant to an unlawful arrest.
- d) Conviction obtained by a violation of the privilege against self-incrimination.
- e) Conviction obtained by the unconstitutional failure of the prosecution to disclose to the defendant evidence favorable to the defendant.
- f) Conviction obtained by a violation of the protection against double jeopardy.
- g) Conviction obtained by action of a grand or petit jury which was unconstitutionally selected and impaneled.
- h) Denial of effective assistance of counsel.
- i) Denial of right of appeal.

PETITION

1. **Institutional Address:** STANVILLE CORRECTIONAL
CENTER
P.O. BOX 112 JOLIET IL
60434
2. **Court:** Name and location of Court in which the conviction you are challenging was obtained: COOK COUNTY JAIL
2600 SOUTH CALIFORNIA
CHICAGO IL 60608
3. **Judge(s):** Trial Judge _____
Sentencing Judge MRS. LAW Rm 706

4. **Date:** What was the date of your conviction? 2 - 24 - 2006
5. **Crime:**
- a) Of what crime(s) were you convicted? CANABIS AND
ATTEMPTATION OF THREAT
- b) Were you sentenced on more than one count of an indictment, or on more than one indictment in the same court at the same time?
Yes ☒ No ☐
- If yes, explain: CASE # 06 CR 7073 THAT WILL BE
THE CANABIS CASE # 06 CR 7742 THAT WILL
BE THE ATTEMPTATION OF THREAT
6. **Lawyer:** Who was your lawyer?
- a) At preliminary hearing UNKNOWN
- b) At arraignment and plea UNKNOWN
- c) At trial UNKNOWN
- d) At sentencing UNKNOWN
- e) On direct appeal UNKNOWN
- f) In any post-conviction proceeding UNKNOWN
- g) On appeal from any adverse ruling in a post-conviction proceedings UNKNOWN
7. **Plea:**
- a) What your conviction a result of a guilty plea or plea of nolo contendere?
(Check one)
☒ Yes, guilty plea
☐ Yes, nolo contendere
☐ No
- b) What was the date of your plea? 4-23-07
- c) If you pleaded guilty to one count or one indictment, and pleaded not guilty or nolo contendere to another, give details: ON 4-23-07 I
PLEADED GUILTY TO THE CANABIS AND ATTEMPTATION OF
THREAT IN RETURN FOR THEM TO DISMISS THE HAND GUN

8. Sentence: What was your sentence? 10 years,

9. Trial: a) What kind of trial?
_____ Jury ☒ Judge without a jury

b) Did you testify at the trial? ☐ Yes ☒ No

10. Appeal(s): a) Did you appeal your criminal conviction? ☐ Yes ☒ No

b) If you did appeal, answer the following:

Name and location of Court to which you first appealed _____

Date Notice of Appeal was filed _____

Result _____

Date of Opinion _____

Citation of court opinion (if known) _____

Ground(s) raised on direct appeal _____

If you did not directly appeal, explain briefly why you did not BECAUSE

MY ATTORNEY FAILED TO PRODUCE THE EVIDENCE

c) Did you attempt to appeal the result to the highest state court having jurisdiction? ☒ Yes ☐ No

d) If you did attempt to appeal to the highest state court, attach a copy of the petition or motion you made, and answer the following (or attach a copy of the court's opinion or order): MY ATTORNEY FAILED TO RELEASE IT

Name and location of Court COOK COUNTY JAIL

2600 SOUTH CALIFORNIA CHICAGO IL 60608

Date Petition for Leave to Appeal or Notice of Appeal was filed 4-23-07

Result HE FAILED TO DO SO

Date of Opinion NEVER RECEIVED BECAUSE HE FAILED TO DO SO

Citation of court opinion (if known) NEVER RECEIVED IT

Ground(s) raised LOCATION 6012 S. KEEFER WAS NOT OWNED LEASED OR RENTED TO A JAMES BLACKMON

If you did not appeal to the highest state court, explain briefly why you did not BECAUSE MY ATTORNEY FAILED TO DO SO

c) Did you seek permission to file a late appeal? ☐ Yes ☒ No

11. Post Conviction Collateral Proceeding(s):

a) Other than a direct appeal from the judgment of conviction and sentence, have you previously filed any petitions, applications, or motions with respect to this judgment in any court, state or federal:
☐ Yes ☒ No

b) If yes, give the following information:

A. First petition, application or motion.

- 1) Name of Court NONE
- 2) Date Filed NONE
- 3) Nature of Proceeding NONE
- 4) Ground(s) Raised LOCATION 6012 S. KEEFER WAS NOT OWNED LEASED OR RENTED TO A JAMES BLACKMON

- 6) Final Result None

- 7) Date of Final Result (Attach a copy of the court's opinion or order) NONE

- 8) If this petition, application, or motion was brought in a state court, did you appeal the result to the highest state court having jurisdiction?
 ___ Yes No

If you did appeal, give the name of the court where the appeal was filed, the result, the case number, citation and date of the court's decision (or attach a copy of the court's opinion or order) _____

- 9) If you did not appeal, briefly explain why you did not Because my
Attorney Failed to do so

B.

- 1) Name of Court NONE

- 2) Date Filed NONE

- 3) Nature of Proceeding NONE

- 4) Ground(s) Raised Location 6012 S. FEEER WAS NOT
OWNED LEASED OR RENTED BY OR TO A JAMES
BLACKMAN

- 5) Did you receive an evidentiary hearing on your petition, application or motion?
 ___ Yes ___ No

6) Final Result NONE

7) Date of Final Result (Attach a copy of the court's opinion or order) NONE

8) If this petition, application, or motion was brought in state court, did you appeal the result to the highest state court having jurisdiction?

Yes No

If you did appeal, give the name of the court where the appeal was filed, the result, the case number, citation and date of the court's decision (or attach a copy of the court's opinion or order)

9) If you did not appeal, briefly explain why you did not BECAUSE MY

ATTORNEY FAILED TO PRODUCE THE EVIDENCE

C. As to any third petition, application or motion, give the following information:

1) Name of Court NONE

2) Date Filed NONE

3) Nature of Proceeding NONE

4) Ground(s) Raised LOCATION 6012 S KEEPER WAS NOT OWNED LEASED OR RENTED TO A JAMES BLACKMAN

5) Did you receive an evidentiary hearing on your petition, application or motion?

Yes No

6) Final Result NONE

7) Date of Final Result (Attach of copy of the court's opinion or order) NONE

- 8) If this petition, application, or motion was brought in state court, did you appeal the result to the highest state court having jurisdiction?
 ___ Yes ☒ No

If you did appeal, give the name of the court where the appeal was filed, the result, the case number, citation and date of the court's decision (or attach a copy of the court's opinion or order) _____

- 9) If you did not appeal, briefly explain why you did not BECAUSE MY
ATTORNEY FAILED TO PROVIDE ME EVIDENCE

12. Other Remedies:

Describe all other procedures, such as administrative remedies, that you have utilized. List the dates when you sought each remedy, the result, and the date of that result _____

13. Ground(s) for Federal Habeas Corpus:

State in the following paragraph(s) every ground or reason you claim your conviction is improper or unlawful.

A. First Ground

- 1) My conviction violates the constitution or laws of the United States because: BEING
HELD FAIRLY IMPRISONED ALSO THE CHICAGO POLICE OFFICERS
GIVEN FAISE INFORMATION TO THE DISTRICT COURT FOR A
SEARCH WARRANT FOR A JAMES BLACKMAN AT LOCATION
6012 S. KEELER WHERE HE DOES NOT OWN LEASE OR
WENT AT THE LOCATION OF 6012 S. KEELER IN CHICAGO IL.

- 2) I have already raised this claim in state court.

Direct Appeal: ___ Yes ☒ No

14. If any of the grounds listed in 13A, B, or C were not previously presented in any court, state or federal, state briefly what grounds were not so presented, and give your reasons for not presenting them: NONE BECAUSE MY ATTORNEY FAILED TO PRODUCE THE APPEAL MOTION

15. Do you have any petition or appeal now pending in court, either state or federal, regarding the conviction under attack? ☐ Yes ☒ No

If yes, give the name of the Court and nature of proceeding: _____

16. Second or Successive Petitions:

- a) Is this a second or successive petition? (Have you previously filed a habeas petition in federal court with respect to the judgment you are currently attacking?) Yes () No (☒)
- b) If yes, have you attached a copy of an Order from a three-judge panel of the court of appeals authorizing this court to consider this petition? Yes () No (☒)

NOTE: To file a second or successive petition with this court, you must first obtain an Order from a three-judge panel of the court of appeals that authorizes this court to consider this petition. You must attach a copy of such an Order.

Failure to attach a copy of such Order will result in automatic dismissal of this petition.

- c) Does this second or successive habeas petition raise a claim that you have not presented in a previous petition(s)? Yes () No (☒)

If no, answer the following:

- (1) Briefly explain the claim not raised in a previous petition BECAUSE MY ATTORNEY FAILED TO PRODUCE THE APPEAL OR THE MOTION

- (2) Does the new claim rest on new facts that could not have previously been discovered through the exercise of due diligence; and would the facts, if proven and viewed in light of the evidence as a whole, be sufficient to establish by clear and convincing evidence that, but for the constitutional error, no reasonable factfinder would have found you guilty of the underlying offense? If yes, what are those facts? DUE TO THE FACT OF THE CONSTITUTION THERE IS NO WAY THAT THE CONSTITUTION WILL LOCK UP A PERSON FOR A LOCATION THAT HE DOES NOT OWN LEASE OR RENT AND I KNOW THAT THE CONSTITUTION WILL STRAIGHTEN IT OUT FOR ME.
- (3) Does the new claim rely on a new rule of constitutional law that was previously unavailable, and which was made retroactive to cases on collateral review by the United States Supreme Court? If so, what is that rule? NONE

FUTURE SENTENCE

Do you have any future sentence to serve after you complete the sentence imposed by the conviction under attack? ☐ Yes ☒ No

- a) If yes, give name and location of court which imposed sentence to be served in the future: _____
- b) Give date and length of sentence to be served in the future: _____
- c) Have you filed, or do you contemplate filing, any petition attacking the conviction which imposed the sentence to be served in the future? ☐ Yes ☒ No

REQUEST FOR RELIEF

State here exactly what you want to the court to do:

I COME TO THE HONORABLE COURT TO PLEASE GRANT MY RELEASE BASED ON FALSE INFORMATION GIVEN BY THE CHICAGO POLICE OFFICERS AND DUE TO THE LOCATION THAT IS NOT OWNED BY ME I RENTED BY ME OR RENTED BY ME THAT I AM FAIRLY IMPRISONED FOR TODAY. IF YOU WILL LOOK AT THE OWNER STATEMENT YOU WILL SEE THAT THE OWNER STATED THAT SHE RENTED HER HOUSE TO A HOUSE, LADY BY THE NAME OF LARRY N SMITH AND NOT A JAMES BLACKMAN THANK YOU ALSO THERE IS AN ATTACHMENT.

DECLARATION UNDER PENALTY OF PERJURY

I, the undersigned, certify to the best of my knowledge, information, and belief, that this petition is in full compliance with Rule 11(a) and 11(b) of the Federal Rules of Civil Procedure. The undersigned also recognizes that failure to comply with Rule 11(a) and (b) may result in sanctions, monetary or non-monetary, pursuant to Federal Rule of Civil Procedure 11(c).

Signed this 24 day of 3-24-08, W

James Blackman
Signature of Petitioner

(Signature of lawyer, if any)

DUE TO THE FACT OF FALSE INFORMATION THAT WAS GIVEN BY THE CHICAGO POLICE OFFICERS BY GOING INTO A DISTRICT COURT TO GET A SEARCH WARRANT FOR A (JAMES BLACKMAN) AT THE LOCATION OF 6012 S. KEELER IN CHICAGO IL. ALSO DUE TO THE FACT OF THE PROSECUTORS HIDING THE EVIDENCE TO THE CASE THAT SHOWS THAT THE DEFENDENT (JAMES BLACKMAN) WAS NOT THE OWNER, THE LEASE OWNER, OR THE RENTER OF THIS LOCATION OF 6012 S. KEELER IN CHICAGO IL. ALSO LET IT SHOW THAT THE STATE'S ATTORNEY SENT OUT THERE INVESTIGATORS TO THE OWNER OF 6012 S. KEELER WHERE THE OWNER SAT DOWN WITH THE INVESTIGATORS WHERE THEY GOTTEN WRITTEN STATEMENTS FROM THE OWNER OF 6012 S. KEELER, WHERE THE OWNER STATES SHE SAT DOWN WITH A YOUNG LADY BY THE NAME OF (LAURYN SMITH) THE OWNER ALSO STATES THAT SHE ASKED THE YOUNG LADY WHO WILL RESIDE AT THE LOCATION WITH HER, WHERE THE YOUNG LADY STATED HERSELF, HER COUSIN, AND TWO SMALL CHILDREN. THE OWNER ALSO STATED THAT SHE SAT DOWN AND WROTE OUT A LEASE TO (LAURYN SMITH) THEY ALSO ASKED HER DID SHE RENT OUT TO A JAMES

Blackman, so also let the record show that my attorney knew of all this but he was not in my defense he was with the prosecutors and the evidence will show that he was an ineffective counselor. Also let the record show that after I got notice that the Chicago police officers was looking for me I went down to the station the following day to see what it was that they wanted with me and was locked up the next day for the location of 6012 S. Keeler where I do not lease, own, rent, or get mail at this location. I ask that this heavenly court grant my release thank you.